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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANTHONY PASSARO,

Petitioner,

v.

THOMAS H. COLLINS, Commandant; et
al.,

Respondents.

No. 04-72244

Agency No. ME-175

MEMORANDUM^{*}

On Petition for Review of an Order of the
National Transportation Safety Board

Submitted March 8, 2006^{**}

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Anthony Passaro petitions for review of a final order of the National Transportation Safety Board affirming the decision of an administrative law judge (“ALJ”) finding that the United States Coast Guard had proved a charge and

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

specification of misconduct against Passaro and properly suspended his Merchant Marine license. We have jurisdiction under 49 U.S.C. § 1153. We review for substantial evidence and will uphold the ALJ's decision unless the evidence compels a contrary conclusion. *Borregard v. NTSB*, 46 F.3d 944, 945 (9th Cir. 1995). We deny the petition for review.

Passaro's contention that the United States Coast Guard had no authority to bring the instant charges absent a violation of law is without merit because 46 U.S.C. § 7703(1)(B) specifically grants the Coast Guard the authority to suspend or revoke a merchant marine license due to misconduct. According to 46 C.F.R. § 5.27, "misconduct" is defined, *inter alia*, as conduct which violates a ship's regulation or order.

Substantial evidence supports the ALJ's finding that Passaro engaged in misconduct by pumping bilge water directly overboard without first passing it through the oily water separator as mandated by vessel regulations. To the extent the ALJ resolved conflicting testimony, his reasoning was specific and legitimate. *See Janka v. Dep't of Transp.*, 925 F.2d 1147, 1151 (9th Cir. 1991).

We decline to consider contentions raised for the first time in Passaro's reply brief. *See Pfingston v. Ronan Eng'g Co.*, 284 F.3d 999, 1003-04 (9th Cir. 2002).

We deny all pending motions.

PETITION FOR REVIEW DENIED.